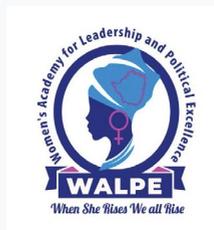


Model Framework For achieving Gender Parity(50/50)



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About WLSA /WALPE project

Women and Law in Southern Africa (WLSA) in partnership with Women's Academy for Leadership and Political Excellence (WALPE) is implementing the "Women Empowered for Participation in Electoral Processes (WEPEP)" project. The partnership comes against a backdrop of outstanding electoral reforms which have inhibited women's effective, active and full participation in the electoral cycle and processes, including in leadership, developmental and democratic processes. The consortium uses an inclusive bottom-up approach to advocate and lobby for outstanding electoral reforms. Involvement and engagement of the affected women leaders are key for the consortium as this population has been side-lined and seldom consulted around the electoral reform agenda. In order to advocate and lobby for the implementation of outstanding electoral reforms that advance gender equality and create a conducive environment for women's full and effective participation, the consortium saw it necessary to develop a model law on Electoral system to support advocacy efforts.

PROPOSED MODEL TO ACHIEVE GENDER BALANCE IN ZIMBABWE THROUGH ELECTIONS

Background

Zimbabwe adopted a constitution in 2013 which incorporated provisions for the achievement of gender equality under section 17, 56 and 80. Despite the provisions in the 2013 Zimbabwe Constitution especially section 17, 56 and 80 that promote gender balance, there is still a long way to go before gender parity in political representation becomes a reality in Zimbabwe, particularly for women who have been marginalized for centuries. The call by the Government to extend the piecemeal gender equality provision confirms the stance of critics of the 2013 Constitution, who have pointed out that it is too early for women to celebrate since time would prove that provisions were mere window dressing. Despite the gender equality clauses in the Constitution there has been an outcry from women who see no political will on the part of the powers-that-be to ensure that gender equality is realized... Despite all the challenges faced by the proportional representation quota system, the Government still want to go ahead and extend the system instead of simply implementing provisions of section 17, 56 and 80 of the Constitution which speak to gender equality.

Women's equal participation in decision-making is not only a demand for simple justice or democracy but can also be seen as a necessary condition for women's interests to be taken into account. Without the active participation of women and the incorporation of women's perspective at all levels of decision making, the goals of equality, development and peace cannot be achieved. Any society like Zimbabwe benefits from the increased representation of women in political parties and elected office. Women's political presence can ensure that policy issues affecting women in particular are channeled into political debates, raise awareness about gender-based

discrimination in all spheres of political and public life and enhance socio-economic development. The presence of women in political office, both elected and appointed, can increase the political system's legitimacy and thus, public confidence in the system.

It is in light of this amendment that WLSA and WALPE developed a framework or model for achieving gender balance in Parliament. The framework clearly stipulates what the Government and the Zimbabwe Electoral Commission should do in order to ensure that every election produces 50% female and 50% male MPs.

Objective

Against this background therefore WLSA and WALPE seek to develop a framework or model for achieving gender balance in Parliament. The framework must clearly stipulate what the Government and the Zimbabwe Electoral Commission (ZEC) should do in order to ensure that every election produces 50% female and 50% male MPs.

EXAMPLE OF GLOBAL SUCCESS STORY ON ELECTIVE GENDER EQUALITY

Case of Rwanda

According to United Nations Women, (UN Women), as at February 2019, there were only three countries that had 50% and more women in their parliaments being Rwanda with 61,3%, Cuba with 53,2% and Bolivia with 53,1%.

Rwanda has a legislated quota system through Article 9 (4) of its 2003 Constitution which provides for universal suffrage through a secret ballot using closed list proportional representation of which at least 30% must be seats reserved for women.

In terms of the Electoral Law, the Rwanda Organic Law as Amended in 2010 allows for a Presidential Order to determine the number of women deputies to be elected at each entity.

Even though Rwanda has the highest representation of women in parliament throughout the world, there are no legal sanctions for non-compliance, no provisions for direct public funding for political parties related to gender equality for candidates, no voluntary quotas adopted by political parties and there are no provisions for other financial advantages to encourage gender equality in political parties according to International IDEA.

Rwanda uses proportional representation as an electoral system.

THE CASE OF ZIMBABWE

The promulgation of the new Constitution in Zimbabwe saw women celebrate the inclusion of provisions on gender equality and women's rights in the supreme law of the land. The 2013 Constitution espouses the values and principles of gender equality in international and regional instruments ratified by Zimbabwe. The Constitution under Section 124b provides for 60 extra seats for women under a proportional representation quota system. The 60 seats have a lifespan of 10 years and are due to expire in 2023. The temporary measure was supposed to empower women and improve their contribution to policy formulation and the development of the country.

The quota system was supposed to contribute to the achievement of gender equality in Parliament but to date, the number of women MPs inclusive of PR ones is standing at 32% and those directly elected at 12%. From researches conducted by women's rights organisations, the PR quota system did not fully empower women, and in its current nurture and form cannot guarantee gender balance. Despite all the challenges faced by the proportional representation quota system,

the Government still wants to go ahead and extend the system instead of simply implementing provisions of Section 17, 56, and 80 of the Constitution which speak to gender equality.

POSSIBLE OPTIONS FOR ZIMBABWE

The Constitution provides for gender equality through Section 17 (Gender Balance), Section 56 (Equality and non-discrimination) and Section 80 (Rights of Women). These provisions sufficiently provide for gender balance in elected positions at the Senate, House of Assembly and Local Authority levels. However, debate has been raised on how best the three sections of the constitution could best be given effect.

As noted in the case study compiled in this paper, no one route can explain the successes other countries have had in achieving gender equality through elective means. A combination of strategies has proven effective working through different combinations. It has also been proven that legislating through the Constitution alone has also not been enough and Zimbabwe gives the best of such examples.

There are, therefore, two distinct routes that could be taken based on the baseline already in existence, the three sections of the Constitution that provide for gender equality.

While the following options are separated for purposes of making them distinct, it should be recognized that they may not be mutually exclusive.

OPTION 1 AMENDING EXISTING LEGISLATION AND PASSING NEW ACTS OF PARLIAMENT

Alignment of electoral laws with the Constitution



The Electoral Act

Amending Section 37A (Delimitation) and Section 46 (Nomination of candidates)



The Political Parties Finance Act

Amending Section 3 (State Financing of Political Parties)



Political Party Registration

Using Sections 17, 56 and 80 of the Constitution, a number of Acts of Parliament could be amended to give effect to gender equality through elections.

a. The Electoral Act

i. Section 37A – Delimitation

The ZEC is mandated to review and fix the boundaries of constituencies.

The section could be amended to delimit and reserve a specific number of seats or constituencies for women who will be elected on the basis of the First Past the Post system (*Basically a woman only contestation*) for House of Assembly and Local Authority seats.

ZEC would ensure that half of the House of Assembly and Local Authority seats will be reserved for woman contestation.

Such reservation of seats could be rotated with every delimitation with the initial reservation being based on a drawing of lots.

ii. Section 46 – Nomination of Candidates

The Section could be amended to provide that the nomination of candidates standing for or sponsored by any political party will only stand if at least 50% of House of Assembly and Local Authority seats which the political party is sponsoring candidates are represented by women.

The other option would be to legislate that political parties must ensure that in any district in which the political party is represented, at least 50% of the seats are represented by women.

b. The Political Parties Finance Act

i. Section 3 - State Financing of Political Parties

Section 3 of the Political Party Finance Act could be amended to ensure that a specific amount is allocated to promote female leadership and candidates in political parties based on the representation of women in Parliament.

The section could further be amended to include incentives for parties that reach and exceed 50% women representation in leadership and candidates for elective positions while sanctioning those that fail to reach the threshold.

ii. Section 3 – State Financing of Political Parties

Amendments could be made to ensure that Political Parties that fail to fulfil the gender balance will face finance penalties on the disbursements in accordance with the Political Party Finance Act.

There could also be imposition of financial sanctions to those political parties failing to nominate an equal percentage of male and female candidates in their representation – only if the difference exceeds 5% of the total number of nominated candidates.

In addition, the amendment could obligate political parties to allocate 50% of the finances received from the Political Party Finance Act to women candidates to ensure fair and equitable distribution of resources.

The Act could also be amended to include state financing for campaigns for women in political parties or independent candidates should they meet specified requirements such as successful filing of nomination, a threshold of nominees exceeding those required for nomination, an election campaign plan, a clear budget and strong financial management mechanisms.

c. Political Party Registration

The legal framework for elections in Zimbabwe does not currently provide for registration of political parties. As such the Electoral Act could be amended to include amendments that provide for the registration of political parties in Zimbabwe. The amendment could provide that political parties must maintain a gender balance in fielding candidates for elections and reserve 50% of all elected seats for woman representation.

OPTION 2 – AMENDING THE CONSTITUTION

Although undesirable given the reluctance by the government to fully implement the Constitution, gender equality can also be achieved through amending the Constitution. The Constitution already provides for gender equality but with limited political will to give effect to the implement, it may be necessary to consider ways of strengthening already existing provision to increase compliance.

Section 92 (2)
Section 120(1)(b)(d)

Section 104



**Section 101(2)(b)
Section 160**

Section 124

Section 155

An amendment could seek to ensure gender inclusivity among the vice-presidents by ensuring that one of the two vice presidents be female

II. Section 101 (2) (b) – Succession in the event of death, resignation, or incapacity of President or Vice President

The amendment could add that the appointed replacement be of the gender being replaced.

III. Section 104 – Appointment of Ministers and Deputy Ministers

An amendment could seek to ensure gender equality or gender inclusivity in the appointment Ministers and Deputy Ministers

Additionally, an amendment could include gender sensitivity in replacements of Ministers and Deputy Ministers when a vacancy arises.

IV. Section 120 (1) (b) and (d) – Composition of Senate

The section could be amended to include gender equality in the election of the 16 chiefs and representatives of persons with disability.

V. Section 124 – Composition of National Assembly

An amendment to Section 124 (1) (a) to indicate that of the 210 members elected by secret ballot, 105 be women.

VI. Section 155 – Principles of electoral system

The Section could be amended to include that the electoral system to be used provides for gender equality.

VII. Section 160 – Number of Constituencies

The section could be amended to include the allocation of seats to gender in equal numbers on a rotational basis with every delimitation.

CONCLUSION AND RECOMMENDATIONS

It is crucial to note that the proposed amendments to existing legislation can be effected without undertaking amendments to the constitution but through aligning existing laws with the constitution in line with gender equality provisions already available. Zimbabwe's legal environment is largely robust and recognizes the disparities that exist between men and women and the exclusion of women. Hence, why legally, there is a positive obligation imposed by the Constitution binding everyone, including State Institutions to promote the achievement of gender equality. Section 2 of the Constitution provides sufficient ground to ignore current efforts to amend the constitution to provide for gender balance through elections.

-  16 Lawson Avenue Milton Park, Harare Zimbabwe
 -  Phone +263242 253001/2/3 or 2928337
 -  WhatsApp 0775708476
 -  Tollfree Number 08080479
 -  Twitter @wlsazim
 -  Email admin@wlsazim.co.zw
 -  Website www.wlsazim.co.zw
 -  Facebook Women and Law in Southern Africa - Zimbabwe
-

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